

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

MAURA O'NEILL, AS ADMINISTRATOR OF
THE ESTATE OF MADELYN E. LINSSENMEIR,
PLAINTIFF

V.

CIVIL ACTION No. 3:20-CV-30036

CITY OF SPRINGFIELD, MOISES
ZANAZANIAN, REMINGTON MCNABB,
SHEILA RODRIGUEZ, HAMPDEN COUNTY
SHERIFF'S DEPARTMENT EILEEN BARRETT,
AND MAUREEN COUTURE,
DEFENDANTS

**AFFIDAVIT OF THOMAS E. DAY IN SUPPORT THE DEFENDANTS, HAMPDEN COUNTY
SHERIFF'S OFFICE, EILEEN BARRETT AND MAUREEN COUTURE'S MOTION TO
ENFORCE SUBPOENA**

I, Thomas E. Day, hereby declare, based on personal knowledge, as follows:

1. I am an attorney at the law firm of Egan, Flanagan and Cohen, P.C., and I am one of the counsel of record for the defendants, the Hampden County Sheriff's Department (the "HCSD"), Eileen Barrett, and Maureen Couture (together, the "HCSD Defendants") in the above-captioned matter.

2. I submit this affidavit in support of the HCSD Defendants' Motion to Enforce Subpoena.

3. On April 4, 2024, I issued a Deposition Subpoena to Ms. Cox requiring Ms. Cox's attendance at deposition on Friday, April 12, 2024 at 2 p.m. in person at my Springfield office. See **Exhibit A**.

4. On or about April 5, 2024, we delivered the deposition subpoena to a process server for service on Ms. Cox, along with a cover letter providing instructions and contact information for myself and my staff, offering the option of a virtual deposition via Zoom, and offering the option of rescheduling the deposition for a different day if the selected day was not convenient for Ms. Cox. See **Exhibit A**.

5. I understand from the return of service and conversations between my staff and process server that, after some difficulty locating Ms. Cox and arranging for service, on April 10, 2024, Ms. Cox and the HCSD Defendants' process server met at a mutually-agreed location so that the process server could serve the Deposition subpoena on Ms. Cox, who personally accepted service. See **Exhibit A**.

6. Between service on April 10, 2024 and the evening of April 11, 2024, Ms. Cox did not contact me either to request a remote deposition via Zoom or an alternative date for the deposition.

7. On April 11, 2024 at approximately 4:54 p.m., I called Ms. Cox to confirm the deposition the next afternoon. Ms. Cox acknowledged receipt of the deposition subpoena but expressed displeasure at having to travel to Springfield for the deposition. I then offered to hold the deposition via Zoom for Ms. Cox's convenience. Ms. Cox provided me with her email address to provide her with the Zoom link.

8. I then arranged to convert the deposition to a Zoom deposition, notifying the Court reporter and plaintiff's counsel that the deposition would be Zoom only, and obtaining a Zoom link later that night.

9. At 9:23 a.m. on the morning of April 12, 2024, my paralegal provided the Zoom link to Ms. Cox to the email address that Ms. Cox had provided to me personally.

10. On April 12, 2024, before the 2 p.m. deposition, my office called Ms. Cox to again remind her of the deposition.

11. Nonetheless, at 2 p.m., Ms. Cox did not appear for the deposition via Zoom. The Court reporter and counsel for the plaintiff were in attendance.

12. Between 2:00 p.m. and 2:38 p.m., I attempted to reach Ms. Cox via telephone and text message, but my calls and messages were not answered.

13. At approximately 2:38 p.m., I went on the record in the deposition to note Ms. Cox's non-attendance in spite of the Subpoena, which I entered as Exhibit 1 to the deposition.

Signed under the pains and penalties of perjury this 16th day of April, 2024.

/s/ Thomas E. Day
Thomas E. Day

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies of this document will be mailed, first-class mail, postage prepaid, to any unregistered participants on April 16, 2024.

/s/ Thomas E. Day
Thomas E. Day